

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

BRADLEY SMITH, an individual,	)	
	)	
Plaintiff Pro Se,	)	
	)	
vs.	)	Case No. 1:16-cv-00144-S-LDA
	)	
DEBORAH GARCIA,	)	
	)	
Defendant.	)	
	)	
and	)	
	)	
MYVESTA FOUNDATION,	)	
	)	
Defendant-Intervenor.	)	

**MOTION TO DISMISS**

Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, defendant-intervenor moves the Court to dismiss the complaint for lack of subject matter jurisdiction and for failure to state a claim on which relief can be granted. Defendant-intervenor also requests an award of attorney fees and damages because the lawsuit is a Strategic Litigation Against Public Participation (“SLAPP”), filed in violation of Myvesta’s immunity from having its speech attacked in court based on the lawful exercise of its First Amendment right to communicate about issues of public concern. In the alternative, an award of attorney fees is sought under the Court’s inherent authority. Assuming that the Court grants the motion to dismiss, the Court is urged to set a briefing schedule allowing the relevant parties to address both the question of the amount to be awarded and against whom the awards should be made.

Respectfully submitted,

/s/ Paul Alan Levy  
Paul Alan Levy (pro hac vice)

Michael Kirkpatrick

Public Citizen Litigation Group  
1600 20th Street NW  
Washington, D.C. 20009  
(202) 588-7725  
plevy@citizen.org

/s/ Jeffrey L. Levy

Jeffrey L. Levy (RI Bar No. 9233)  
Charles D. Blackman (RI Bar No. 5522)  
Levy & Blackman LLP  
Suite 2  
469 Angell Street  
Providence, Rhode Island 02906  
(401) 437-6900  
jlevy@levyblackman.com

Attorneys for Intervenor

November 22, 2016